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*Proposed Counsel for the Official Committee of
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**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION**

In re:

THE ROMAN CATHOLIC BISHOP OF
OAKLAND, a California corporation sole,

Debtor.

Case No. 23-40523 WJL

Chapter 11

**OBJECTION OF THE OFFICIAL
COMMITTEE OF UNSECURED
CREDITORS TO FINAL APPROVAL
OF DEBTOR'S MOTION FOR
APPROVAL OF CONFIDENTIALITY
PROCEDURES**

Judge: Hon. William J. Lafferty

Date: June 20, 2023

Time: 9:00 a.m. (Pacific Time)

Place: United States Bankruptcy Court
1300 Clay Street, Courtroom 220
Oakland, CA 94612

In Person or Zoom Videoconference

1 The Official Committee of Unsecured Creditors (the “Committee”) of the Roman Catholic
2 Bishop of Oakland (“RCBO”) files this limited objection (this “Objection”) to final approval of
3 the *Debtor’s Motion for an Order Authorizing and Approving Special Noticing and Confidentiality*
4 *Procedures* [Dkt. 6] (the “Motion”). In support of this Objection, the Committee states as follows:

5 **PRELIMINARY STATEMENT**

6 1. This is not a typical Chapter 11 case: the primary creditors are survivors of
7 childhood sexual abuse whose trust was violated by an institution they were taught to revere.
8 While that void of trust cannot be fully repaired, transparency is crucial for any hope of a
9 consensual resolution between RCBO and creditors. Secrecy, not transparency, is the goal of the
10 Motion, and the relief requested is not only ill-advised and unproductive, but unnecessary at this
11 juncture.

12 2. Among other relief sought in the Motion, RCBO seeks to unconditionally seal the
13 names of three distinct categories of individuals: (i) the brave survivors who have come forward
14 with claims of sexual abuse against priests and employees affiliated with RCBO, (ii) the
15 individuals accused of abusing children, and (iii) the individuals accused of covering up the abuse.

16 3. The Committee agrees with RCBO that the names of survivors should remain
17 private. However, the Committee disagrees that there is any basis to keep confidential the names
18 of individuals who caused harm by either sexually abusing children or covering up that abuse
19 (together referred to herein as “Accused Individuals”).¹

20 4. The Motion falls short of the required showing and evidentiary support to be
21 afforded the extraordinary relief provided by Section 107 of the Bankruptcy Code. Instead, RCBO
22 effectively asks for this Court to issue an advisory opinion regarding the hypothetical identification
23 of the names of Accused Individuals at some point during this Chapter 11 Case, without
24 considering the factual circumstances of such potential future disclosure. For example, the blanket
25 protection is without regard to: (i) whether the identities of any of the Accused Individuals have
26 already been made public; (ii) whether the accusations are corroborated, (iii) the number of claims
27

28 ¹ The Committee does not oppose the remainder of the relief sought in the Motion.

1 asserted against the Accused Individual, (iv) whether the Accused Individual is still affiliated with
2 RCBO, and (v) whether the Accused Individual is still alive.

3 5. The Court should decline to grant a pre-emptive decision with respect to
4 confidentiality of the names of Accused Individuals, and instead require RCBO to follow this
5 Court's Procedures for protecting information it believes to be confidential.²

6 **BACKGROUND**

7 6. On May 8, 2023 (the "Petition Date"), RCBO commenced a voluntary case (this
8 "Chapter 11 Case") under Chapter 11 of Title 11 of the United States Code (the "Bankruptcy
9 Code") in this Court.

10 7. On the Petition Date, RCBO filed the Motion which, among other things, sought
11 blanket protection to keep the identities of accused predators, and those accused of covering up
12 the abusers' heinous actions, permanently out of the public eye.

13 8. The Motion does not contain a list of Accused Individuals, but rather seeks to
14 protect every individual who is accused of abuse or being complicit in abuse.

15 9. On May 9, 2023, the United States Trustee (the "UST") filed the *United States*
16 *Trustee's Omnibus Objection to Debtor's First Day Motions [ECF Nos. 6, 13, & 16] and*
17 *Reservation of Rights* [Dkt. 30].

18 10. On May 11, 2023, this Court entered the *Interim Order Approving Debtor's Motion*
19 *for an Order Authorizing Special Noticing and Confidentiality Procedures* [Dkt. 35].

20 11. On May 22, 2023, the UST filed an objection to the Motion.

21 12. On May 23, 2023, the UST appointed the Committee under Section 1102(a) of the
22 Bankruptcy Code.

23 13. On May 25, 2023, this Court entered the *Second Interim Order Approving Debtor's*
24 *Motion for an Order Authorizing and Approving Special Noticing and Confidentiality Procedures*
25 [Dkt. 71].

26
27
28 ² Notably, the entry of a protective order would likely moot the contested relief sought in the Motion.

LIMITED OBJECTION

14. Sealing or redacting pleadings is “disfavored under the law and by this Court.” *U.S. Bankruptcy Court for the Northern District of California’s Procedures for Filing Redacted or Sealed Confidential or Highly Sensitive Documents (Effective February 7, 2022)* (the “Procedures”). As such “any request to file a redacted document or to file a document under seal must satisfactorily explain why the court should disregard well-established law and its long-standing policy of open access to the public record.” *Id.*

15. In the Motion, RCBO references the Procedures as a legal basis for relief—conceding the Procedures are relevant and controlling—but does not seek to apply the Procedures or prove compliance with the Procedures.

16. The Procedures set forth separate requirements and procedures relating to (i) highly sensitive material or documents and (ii) confidential material. Because the identification of the names of Accused Individuals indisputably does not fall within the Procedures’ narrow definition of highly sensitive materials,³ RCBO must meet the requirements relating to confidential material or documents. For confidential information, the Procedures indicate the party seeking to protect information must file a motion that is “as narrowly tailored as possible” and “must be supported by a competent declaration that attests to the factual bases for the relief sought.” *Id.* RCBO has done neither.

17. The presumption of public access to judicial records is also codified in Section 107 of the Bankruptcy Code. *See* 11 U.S.C. § 107. Section 107(a) of the Bankruptcy Code provides that, unless certain exceptions apply, “a paper filed in a case under this title and the dockets of a bankruptcy court are public record and open to examination by an entity at reasonable times without charge.” 11 U.S.C. § 107(a).

³ Highly sensitive materials and documents are defined in the Procedures as “material or documents involving: foreign, sovereign interests; criminal activity related to cybersecurity intellectual property, or trade secrets; terrorism; investigation of public officials; potential negative impact on national security or foreign relations of the United States; and sensitive commercial information likely to be of interest to foreign powers.” *Id.*

1 18. Section 107(b) of the Bankruptcy Code provides for protection of (1) trade secrets
2 or confidential research, development, or commercial information, or (2) scandalous or defamatory
3 matter contained in a pleading. *Id.*

4 19. Through the Motion, RCBO does not even attempt to meet its burden of showing
5 how the names of Accused Individuals fall within the scope of Section 107(b) nor why the public
6 should not have the right of access to the names.

7 20. Indeed, although RCBO asserts that “[c]ourts routinely grant similar relief in
8 comparable chapter 11 cases,” (Motion ¶ 38), its string citation does not include a single case
9 where Accused Individuals were authorized blanket protection from identification.

10 21. Notably, the debtor in the pending bankruptcy case of the Roman Catholic Bishop
11 of Santa Rosa did not even seek the scope of relief that RCBO seeks here, and instead sought only
12 to protect the names of survivors. *See generally In re The Roman Cath. Bishop of Santa Rosa*,
13 Case No. 23-10113 (Bankr. N.D. Cal. Mar. 16, 2023) Dkt. 8.

14 22. Although not referenced in the Motion, the Committee understands that RCBO
15 relies on Section 340.1(l) of the California Code of Civil Procedure for the proposition that the
16 names of any Accused Individual must be kept strictly confidential; however, RCBO misconstrues
17 state law.

18 23. First, reliance on Section 340.1(l) ignores the procedures in Section 340.1(m) for
19 permission to unseal a document—an opportunity that plaintiffs in state court actions are currently
20 stayed from pursuing. CCP § 340.1.

21 24. Additionally, Section 340.1(l) is unambiguous in that it only applies to *defendants*
22 in California state court actions and does not otherwise prohibit reference to an individual by name
23 in a complaint where that Accused Individual is not named in the caption of the lawsuit.

24 25. It is inappropriate to redact the identification of any name that is already lawfully
25 available in the public domain.

26 26. RCBO, through the Motion, does not show, and at this stage (as all complaints have
27 not been docketed) cannot show, that every name it seeks to seal (a list of which does not exist),
28

1 is not already in the public domain. The Court should thus deny the Debtor's request for an
2 advisory opinion.

3 27. Because the Debtor cannot meet the required standard, or even identify which
4 names it seeks to protect, the Court should review the Debtor's showing on a case-by-case basis
5 through narrowly tailored motions, as set forth in the Procedures and Bankruptcy Code.

6 28. At a minimum, if this Court is inclined to grant the Motion, the Committee requests
7 that any order maintain the Committee and the UST's right to seek to unseal any document filed
8 with this Court, and that the Debtor be required to meet its burden with respect to the specific
9 sealed information at issue if the Committee or UST files an objection to the same.

10 **WHEREFORE**, the Committee requests that the Court deny the Motion as set forth herein
11 and grant any other relief as is just and proper.

12
13 Dated: June 13, 2023

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